

ARGUMENTS/REMARKS

Claims 1-3, 5-12, 14, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,567,416 (Chuah) in view of USPN 6,370,153 (Eng). Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,567,416 (Chuah) in view of USPN 6,370,153 (Eng) as applied to the claim above, and further in view of USPN 5,822,359 (Bruckert). Claims 4 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully traverses the rejections and requests reconsideration in light of the remarks that follow.

MPEP § 2141.03 requires that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Neither the Chuah nor the Eng references either alone or in combination teach or suggest Applicants’ claimed invention. The Examiner correctly admits that the Chuah reference does not teach “wherein each subchannel of the multiple subchannels is non-overlapping in frequency.” Office Action, October 3, 2005, page 3. Thus, the Examiner attempts to use the Eng reference for such a teaching. However, contrary to the Examiner’s statement that Eng teaches this limitation, the limitation is not disclosed. Thus, the rejection is unsupported by the art and should be withdrawn.

The Examiner states that Eng discloses “non-overlapping in frequency (see col. 2, lines 30-33),” but Applicants’ claims require that the “each subchannel of the multiple subchannels is non-overlapping in frequency” where “each subchannel ... is divided into ... random access subslots.” Shown in Figure 8 of Eng are payload and control channels that are non-overlapping in frequency, e.g. notice the frequencies f2 and f3 for the upstream payload channel and the upstream control channel respectively. However, notice in Figure 9 of Eng that the control

channel is on the *same* frequency. However, such a description does not teach or suggest Applicant's claimed invention. Eng does not teach that the control channel is non-overlapping in frequency.

Applicants' claims require that "each subchannel of the multiple subchannels is non-overlapping in frequency" where "each subchannel ... is divided into ... random access subslots." To better understand this limitation, refer to Applicants' figure 8 where the random access subslots, e.g. 808, 810, are non-overlapping in frequency and non-overlapping in time. The Examiner seems to suggest that since Eng discloses that payload and control channels are non-overlapping in frequency, the limitation of "each subchannel of the multiple subchannels is non-overlapping in frequency" where "each subchannel ... is divided into ... random access subslots" is disclosed. However, the Examiner is mistaken. MPEP § 2141.03 requires that all the words in a claim be considered in judging the patentability of the claim against the prior art and the Examiner has not considered *all* the words, but has selected a few of the words in order to judge the patentability of the claimed invention. In short, the Eng reference does not teach or suggest the elements of the claimed invention and does not specifically teach the claimed limitation of "each subchannel of the multiple subchannels is non-overlapping in frequency" where "each subchannel ... is divided into ... random access subslots." Thus, the rejection is unsupported by the art and must be withdrawn.

Because the combination of Chuah and Eng fails for the above reasons, so to does the combination of Chuah and Eng with Bruckert. As such, the rejection of Claim 13 is unsupported by the art and must be withdrawn.

As such, the Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants. In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

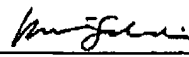
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Respectfully submitted,

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